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LEGISLATIVE HISTORY

Public Law 90-23
H. R. 5357

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INDEX AND SUMMARY OF H. R. 5357

Feb.	13, 1967	Rep. Willis introduced H. R. 5357 which was referred to House Judiciary Committee. Print of bill as introduced.
Mar.	9, 1967	House subcommittee approved H. R. 5357.
Mar.	14, 1967	House committee reported H. R. 5357 without amendment. H. Report 125. Print of bill and report.
April	3, 1967	House passed H. R. 5357 without amendment.
April	4, 1967	H. R. 5357 was referred to Senate Judiciary Committee. Print of bill as referred.
May	17, 1967	Senate committee reported H. R. 5357 with amendments. S. Report No. 248. Print of report - bill as reported not received.
May	19, 1967	Senate passed H. R. 5357 as reported.
May	25, 1967	House concurred in Senate amendments to H. R. 5357.
June	5, 1967	Approved: Public Law 90-23.

90TH CONGRESS
1ST SESSION

H. R. 5357

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 1967

Mr. WILLIS introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend section 552 of title 5, United States Code, to codify the provisions of Public Law 89-487.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 552 of title 5, United States Code, is amended
4 to read:

5 “§ 552. **Public information; agency rules, opinions, orders,**
6 **records, and proceedings**

7 “(a) Each agency shall separately state and currently
8 publish in the Federal Register for the guidance of the
9 public—

10 “(1) descriptions of its central and field organiza-
11 tion and the established places at which, the employees

1 from whom, and the methods whereby, the public may
2 obtain information, make submittals or requests, or ob-
3 tain decisions;

4 “(2) statements of the general course and method
5 by which its functions are channeled and determined,
6 including the nature and requirements of all formal and
7 informal procedures available;

8 “(3) rules of procedure, descriptions of forms
9 available or the places at which forms may be obtained,
10 and instructions as to the scope and contents of all
11 papers, reports, or examinations;

12 “(4) substantive rules of general applicability
13 adopted as authorized by law, and statements of general
14 policy or interpretations of general applicability formu-
15 lated and adopted by the agency; and

16 “(5) each amendment, revision, or repeal of the
17 foregoing.

18 Except to the extent that a person has actual and timely
19 notice of the terms thereof, a person may not in any manner
20 be required to resort to, or be adversely affected by, a mat-
21 ter required to be published in the Federal Register and not
22 so published. For the purpose of this subsection, matter
23 reasonably available to the class of persons affected thereby
24 is deemed published in the Federal Register when incor-

1 porated by reference therein with the approval of the Di-
2 rector of the Federal Register.

3 “(b) Each agency, in accordance with published rules,
4 shall make available for public inspection and copying—

5 “(1) final opinions, including concurring and dis-
6 senting opinions, as well as orders, made in the adjudi-
7 cation of cases;

8 “(2) those statements of policy and interpretations
9 which have been adopted by the agency and are not
10 published in the Federal Register; and

11 “(3) administrative staff manuals and instructions
12 to staff that affect a member of the public;

13 unless the materials are promptly published and copies of-
14 fered for sale. To the extent required to prevent a clearly
15 unwarranted invasion of personal privacy, an agency may
16 delete identifying details when it makes available or pub-
17 lishes an opinion, statement of policy, interpretation, or staff
18 manual or instruction. However, in each case the justifica-
19 tion for the deletion shall be explained fully in writing.
20 Each agency also shall maintain and make available for
21 public inspection and copying a current index providing
22 identifying information for the public as to any matter issued,
23 adopted, or promulgated after July 4, 1967, and required by
24 this subsection to be made available or published. A final

1 order, opinion, statement of policy, interpretation, or staff
2 manual or instruction that affects a member of the public
3 may be relied on, used, or cited as precedent by an agency
4 against a party other than an agency only if—

5 “(A) it has been indexed and either made avail-
6 able or published as provided by this subsection; or

7 “(B) the party has actual and timely notice of the
8 terms thereof.

9 “(c) Except with respect to the records made avail-
10 able under subsections (a) and (b) of this section, each
11 agency, on request for identifiable records made in accord-
12 ance with published rules stating the time, place, fees to the
13 extent authorized by statute, and procedure to be followed,
14 shall make the records promptly available to any person.
15 On complaint, the district court of the United States in the
16 district in which the complainant resides, or has his prin-
17 cipal place of business, or in which the agency records are
18 situated, has jurisdiction to enjoin the agency from with-
19 holding agency records and to order the production of any
20 agency records improperly withheld from the complainant.
21 In such a case the court shall determine the matter de novo
22 and the burden is on the agency to sustain its action. In
23 the event of noncompliance with the order of the court, the
24 district court may punish the responsible employees for con-
25 tempt. Except as to causes the court considers of greater

1 importance, proceedings before the district court, as author-
2 ized by this subsection, take precedence on the docket over
3 all other causes and shall be assigned for hearing and trial
4 at the earliest practicable date and expedited in every way.

5 “(d) Each agency having more than one member shall
6 maintain and make available for public inspection a record
7 of the final votes of each member in every agency pro-
8 ceeding.

9 “(e) This section does not apply to matters that are—

10 “(1) specifically required by Executive order to be
11 kept secret in the interest of the national defense or
12 foreign policy;

13 “(2) related solely to the internal personnel rules
14 and practices of an agency;

15 “(3) specifically exempted from disclosure by
16 statute;

17 “(4) trade secrets and commercial or financial in-
18 formation obtained from a person and privileged or
19 confidential;

20 “(5) inter-agency or intra-agency memorandums or
21 letters which would not be available by law to a party
22 other than an agency in litigation with the agency;

23 “(6) personnel and medical files and similar files
24 the disclosure of which would constitute a clearly un-
25 warranted invasion of personal privacy;

1 “(7) investigatory files compiled for law enforce-
2 ment purposes except to the extent available by law to
3 a party other than an agency;

4 “(8) contained in or related to examination, oper-
5 ating, or condition reports prepared by, on behalf of,
6 or for the use of an agency responsible for the regulation
7 or supervision of financial institutions; or

8 “(9) geological and geophysical information and
9 data, including maps, concerning wells.

10 “(f) This section does not authorize withholding of
11 information or limit the availability of records to the public,
12 except as specifically stated in this section. This section
13 is not authority to withhold information from Congress.”

14 SEC. 2. The analysis of chapter 5 of title 5, United
15 States Code, is amended by striking out:

 “552. Publication of information, rules, opinions, orders, and public
 records.”

16 and inserting in place thereof:

 “552. Public information; agency rules, opinions, orders, records, and
 proceedings.”

17 SEC. 3. The Act of July 4, 1966 (Public Law 89-487,
18 80 Stat. 250), is repealed.

19 SEC. 4. This Act shall be effective July 4, 1967, or on
20 the date of enactment, whichever is later.

A BILL

To amend section 552 of title 5, United States Code, to codify the provisions of Public Law 89-487.

By Mr. WILLIS

FEBRUARY 13, 1967

Referred to the Committee on the Judiciary

March 9, 1961

The Ways and Means Committee reported H. R. 2155, to amend the U. S. Tariff Schedules with respect to the classification of Chinese gooseberries (H. Rept. 114). p. H2537

11. RESEARCH. Both Houses received the President's message on the marine science activities in which he said "the vast food reserves of the sea must be developed" and "continuing pollution and erosion of our seashores, bays, estuaries, and Great Lakes must be arrested" (H. Doc. 79); to House Merchant Marine and Fisheries and Senate Commerce Committees. pp. H2366-7, S3407-8
12. INVESTMENT CREDIT. Both Houses received the President's message recommending "immediate and prompt reinstatement of the 7-percent investment tax credit and accelerated depreciation" (H. Doc. 81); to House Ways and Means and Senate Finance Committees. pp. H2406-7, S3471-3
Rep. Mills and Sen. Proxmire spoke in favor of restoring the investment credit tax. pp. H2435-7, S3415
13. INFORMATION. A subcommittee of the Judiciary Committee approved for full committee action H. R. 5357, to amend the U. S. Code, to codify the provisions of Public Law 89-487 regarding the publication in the Federal Register of public information, rules, etc., of agencies. p. D157
14. PERSONNEL. A subcommittee of the Judiciary Committee approved for full committee action H. R. 5876, amended, to amend the U. S. Code, relative to codifying, repealing, and amending numerous personnel laws. p. D157
Rep. Gonzalez inserted two articles reviewing "the plight of the Federal employee, the invasions of his privacy, the prying into his financial affairs, the ridiculous questionnaires he is forced to fill out," etc. pp. H2527-31
15. HOLIDAYS. A subcommittee of the Judiciary Committee approved for full committee action H. R. 2513, to establish a Commission on National Observances and Holidays to consider proposals for such observances and holidays and make recommendations to the President. p. D157
16. MILITARY CONSTRUCTION. Both Houses received from Defense a proposed bill "to authorize certain construction at military installations"; to Armed Services Committees. pp. H2537, S3411
17. STOCKPILING. Received from the President a report of the "Statistical Supplement, Stockpile Report to the Congress." p. H2537
18. ROADS. Rep. Pelly spoke in support of his bill to provide for scenic development and road beautification of the Federal-aid highway system. pp. H2410-14
19. LEGISLATIVE REORGANIZATION. Rep. Brooks urged the Rules Committee to take prompt action on the legislative reorganization bill. p. H2425
20. TEXTILE IMPORTS. Several Representatives expressed concern over the "increasing volume of imports of textile products and apparel." pp. H2433-4, H2437-8, H2461-2504
21. REDWOODS. Rep. Don H. Clausen inserted an article supporting the proposal to establish a Redwood National Park. pp. H2438-40

22. RECREATION. Rep. O'Hara, Mich., spoke in support of his bill to authorize Federal grants under the open-space land program for development of existing open-space land and for the acquisition of outdoor and indoor recreational buildings, etc.
23. CONSUMER AFFAIRS. Rep. Rosenthal reviewed and commended consumer representation in several European countries which progress he stated "eludes" the U. pp. H2520-1
24. ADJOURNED until Mon., Mar. 13. p. H2536

ITEMS IN APPENDIX

25. AIR POLLUTION. Extension of remarks of Rep. Tunney describing the provisions of three bills which he has introduced on air pollution control. p. A1162
26. EDUCATION. Extension of remarks of Rep. Tunney urging early appropriations for Federal educational programs. p. A1163
27. FOREIGN AID. Extension of remarks of Rep. Hanley stating that "In Saigon, facilities are being strained by massive increases in shipments of military supplies and commodities", and inserting AID Administrator Gaud's comments on this problem. pp. A1167-8
28. POVERTY. Extension of remarks of Rep. Perkins discussing the question of the Office of Economic Opportunity's future and the views of the White House on this subject. pp. A1168-9
Extension of remarks of Rep. Mathias, Md., urging sustained effort in the battle to reduce poverty, and inserting an article, "Poverty and Our Duty." p. A1185
29. RURAL MAIL. Rep. Marsh inserted an article, "The Birth of R. F. D. Mail Service." pp. A1183-4

BILLS INTRODUCED

30. ORGANIZATION. H. R. 6921 by Rep. Fino, to establish a Department of Consumer Affairs in order to secure within the Federal Government effective representation of the economic interests of consumers; to coordinate the administration of consumer services by transferring to such Department certain functions of the Department of Health, Education, and Welfare, the Department of Labor, and other agencies; to Government Operations Committee. Remarks of author pp. H2417-22
31. TAXATION. S. 1236 by Sen. Young, N. Dak., to provide for the sharing with the State and local governments of a portion of the tax revenues received by the United States; to Finance Committee. Remarks of author p. S3411
H. R. 6946 by Rep. Pepper, to establish a system for the sharing of certain Federal revenues with the States; to Ways and Means Committee.
32. FARM LABOR. H. R. 6928 by Rep. Gonzalez, to amend the National Labor Relations Act, as amended, so as to make its provisions applicable to agriculture; to Education and Labor Committee.

March 14, 1967

2. PUBLIC LANDS. Sen. Kuchel criticized a notice by the Interior Department withdrawing "All public lands which are valuable or prospectively valuable for geothermal steam." p. S3694
3. BUDGET. Sen. Williams, Del., criticized the fiscal policy of the CCC and stated that the GAO report on the CCC is "another report which further emphasizes the phony bookkeeping procedures of this administration." pp. S3705-6
4. INTERGOVERNMENTAL RELATIONS. Sen. Mundt inserted several speeches dealing with intergovernmental relations. pp. S3706-8
5. CONSERVATION. Sen. Moss inserted a speech by Sen. Metcalf on management, development, and use of natural resources. pp. S3716-9
6. CONSUMERS. Sen. Magnuson commended the President's proposed program to protect the consumer and inserted several articles on this subject. pp. S3733-4
7. DOMESTIC TRADE. Sen. Kuchel discussed "discriminatory trade barriers erected by certain States to restrict free movement of California wines" and urged "speedy elimination of discriminatory trade barriers." pp. S3693-4
8. FOREIGN TRADE. Sen. Thurmond inserted a speech by former Secretary of Agriculture Benson on "Trade and Treason." pp. S3694-8

HOUSE

9. HOLIDAYS. The Judiciary Committee reported H. R. 2513, to establish a Commission on National Observances and Holidays to consider proposals for such observances and holidays and make recommendations to the President (H. Rept. 120). p. H2699
0. PERSONNEL. The Judiciary Committee reported with amendments H. R. 5876, to amend the U. S. Code, relative to codifying, repealing, and amending numerous personnel laws (H. Rept. 124). p. H2699
1. INFORMATION. The Judiciary Committee reported H. R. 5357, to amend the U. S. Code, to codify the provisions of Public Law 89-487 regarding the publication in the Federal Register of public information, rules, etc., of agencies (H. Rept. 125). p. H2699
2. TAXATION. Passed without amendment H. R. 1326, to exempt from the manufacturer's excise tax "bird-scaring-type shells and cartridges which are used by farmers and others to protect growing crops from wild birds, for herding wild birds into State and Federal bird sanctuaries," etc. p. H2655
Passed without amendment H. R. 2767, providing "that if a farmer pays an assessment levied by a soil or water conservation or drainage district, which is attributable to the acquisition by the district of depreciable property, the amount paid can be deducted for income tax purposes on an amortized basis over a 10-year period." p. H2656
Passed without amendment H. R. 6097, providing "that if property is destroyed or damaged by a storm, flood, or other casualty which is designated by the President of the United States as a major disaster, then, if the losses exceed the gains, both the losses and the gains will be treated as ordinary for tax purposes." p. H2660

Rep. Langen expressed the hope that "comprehensive congressional hearings" can be held on tax sharing proposals early as "there is growing public support for the 'tax-back' principle." p. H2669

13. TARIFF. Passed without amendment H. R. 2155, to "make fresh Chinese gooseberries subject to the tariff rate equivalent to the general tariff level applied to berries rather than the tariff level applied to 'other' fruits." pp. H2655-6
Passed without amendment H. R. 4880, "to continue from February 4, 1966, until the close of June 30, 1967, the time in which importers may request reclassification of imports under certain lower tariff-rate provisions provided by the Technical Amendments Act of 1965." p. H2657
14. VETERANS' AFFAIRS. A subcommittee of the Veterans' Affairs Committee approved for full committee action H. R. 2068, amended, to increase the rates of pension payable to certain veterans and their widows, and to provide additional readjustment assistance for veterans of service after Jan. 31, 1955.
15. BUILDING CODES. Rep. Dwyer inserted an appraisal of the Advisory Commission on Intergovernmental Relations recommendations to the Federal, State, and local governments for modernizing and updating building codes. pp. H2681-4
16. AIR POLLUTION. Rep. Rodino warned of a "genuine crisis" in the air pollution situation and inserted an editorial on the subject. p. H2685
17. FORESTRY. Rep. Johnson, Calif., stated that "national forest recreation helps support rural Americans" and commended the Forest Service for the work it is doing to revitalize rural America. pp. H2690-1
Rep. Cohelan inserted his statement expressing disappointment in the Administration's proposal for a Redwood National Park. p. H2698
18. PATENTS. Rep. Willis announced that public hearings on H. R. 5924, the proposed Patent Reform Act of 1967, will be held on April 17, 1967. p. H2690
19. FOOD STAMP. Rep. Sullivan urged early passage of her bill to continue and expand the food stamp program. p. H2673
20. CONSERVATION. Rep. Gonzalez inserted an article, "Man, Earth and Water," which states "If widespread famine is to be avoided, we must cultivate an entirely new and enlightened relationship to the earth and its provender." pp. H2695-7
21. CCC. Received a GAO report of "examination of financial statements, fiscal year 1966, Commodity Credit Corporation" (H. Doc. 85). p. H2698

ITEMS IN APPENDIX

22. JOB CORPS. Extension of remarks of Sen. Metcalf stating that he believes the Job Corps does needed and valuable work and inserted a letter to the editor on this subject. p. A1249
23. POVERTY. Extension of remarks of Rep. Rarick stating that "A better definition for these antipoverty workers would be anti-American", and inserting an article critical of the fact that no federal audit has been made of certain poverty program funds. pp. A1250-1, A1267

CODIFICATION OF PUBLIC LAW 89-487

MARCH 14, 1967.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. WILLIS, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 5357]

The Committee on the Judiciary, to whom was referred the bill (H.R. 5357) to amend section 552 of title 5, United States Code, to codify the provisions of Public Law 89-487, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of this bill is to incorporate into title 5 of the United States Code, without substantive change, the provisions of Public Law 89-487, which was enacted subsequent to the passage of title 5 by the House of Representatives.

Title 5, enacted by Public Law 89-554, contained the Administrative Procedure Act as amended through June 30, 1965. The amendment to that act by Public Law 89-487 becomes effective July 4, 1967, but was not drafted as an amendment to title 5.

SECTION ANALYSIS

SECTION 1

Section 1 amends section 552 of title 5, United States Code, to reflect Public Law 89-487.

The words "Every agency shall make available to the public the following information" are omitted as redundant as to subsections (a)-(d) in view of the provisions contained therein, and as inapplicable to subsections (e) and (f).

In subsections (a)(1) and (c), the word "employees" is substituted for "officers" to conform with the definition of "employee" in 5 U.S.C. 2105.

In the last sentence of subsection (b), the words "A final order * * * may be relied on * * * only if" are substituted for "No final order * * * may be relied upon * * * unless"; and the words "a party other than an agency" and "the party" are substituted for "a private party" and "the private party", respectively, on authority of the definition of "private party" in 5 App. U.S.C. 1002(g).

In subsection (d), the words "shall maintain and make available for public inspection a record" are substituted for "shall keep a record * * * and that record shall be available for public inspection".

In subsection (e)(5) and (7), the words "a party other than an agency" are substituted for "a private party" on authority of the definition of "private party" in 5 App. U.S.C. 1002(g).

In subsection (f), the words "This section does not authorize" and "This section is not authority" are substituted for "Nothing in this section authorizes" and "nor shall this section be authority", respectively.

5 App. U.S.C. 1002(g), defining "private party" to mean a party other than a agency, is omitted since the words, "party other than an agency" are substituted for the words "private party" wherever they appear in revised 5 U.S.C. 552.

5 App. U.S.C. 1002(h), prescribing the effective date, is omitted as unnecessary. That effective date is prescribed by section 4 of this bill.

SECTION 2

Section 2 amends the analysis of chapter 5 of title 5, United States Code, to reflect the change in the catchline for section 552 of title 5.

SECTION 3

Section 3 repeals the act of July 4, 1966, Public Law 89-487 (80 Stat. 250)

SECTION 4

Section 4 prescribes the effective date of the bill as July 4, 1967, or the date of enactment of the bill, whichever is later. This conforms with the effective date of Public Law 89-487 which is repealed by this bill.

In compliance with paragraph 3 of rule XIII of the Rules of the House of Representatives, changes in existing law are shown below:

EXISTING LAW

(Sec. 3 of Administrative Procedure Act, as amended by Public Law 89-487)

SEC. 3. Every agency shall make available to the public the following information:

(a) PUBLICATION IN THE FEDERAL REGISTER.—Every agency shall separately state and currently publish in the Federal Register for the guidance of the public (A) descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions; (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available; (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and (E) every amendment, revision, or repeal of the foregoing. Except to the extent that a person has actual and timely notice of the terms thereof, no person

NEW TEXT

(Sec. 552 of title 5, United States Code)

§ 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

(1) descriptions of its central and field organization and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

shall in any manner be required to resort to, or be adversely affected by any matter required to be published in the Federal Register and not so published. For purposes of this subsection, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(4) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(5) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this subsection, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(b) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(1) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) AGENCY OPINIONS AND ORDERS.—Every agency shall, in accordance with published rules, make available for public inspection and copying (A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, (B) those state-

ments of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and (C) administrative staff manuals and instructions to staff that affect any member of the public, unless such materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction: *Provided*, That in every case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed and either made available or published as provided by this subsection or unless that private party shall have actual and timely notice of the terms thereof.

- (2) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and
- (3) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in

NEW TEXT

writing. Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this subsection to be made available or published. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

(A) it has been indexed and either made available or published as provided by this subsection; or

(B) the party has actual and timely notice of the terms thereof.

(c) Except with respect to the records made available under subsections (a) and (b) of this section, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter *de novo* and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish the responsible employees for

(c) AGENCY RECORDS.—Except with respect to the records made available pursuant to subsections (a) and (b), every agency shall, upon request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, make such records promptly available to any person. Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have jurisdiction to enjoin the agency from the withholding of agency records and to order the production of any agency records improperly withheld from the complainant. In such cases the court shall determine the matter *de novo* and the burden shall be upon the agency to sustain its action. In the event of noncompliance with the court's order, the

contempt. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this subsection, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(d) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(e) This section does not apply to matters that are—
 (1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;
 (2) related solely to the internal personnel rules and practices of an agency;
 (3) specifically exempted from disclosure by statute;
 (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

district court may punish the responsible officers for contempt. Except as to those causes which the court deems of greater importance, proceedings before the district court as authorized by this subsection shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(d) AGENCY PROCEEDINGS.—Every agency having more than one member shall keep a record of the final votes of each member in every agency proceeding and such record shall be available for public inspection.

(e) EXEMPTIONS.—The provisions of this section shall not be applicable to matters that are (1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy; (2) related solely to the internal personnel rules and practices of any agency; (3) specifically exempted from disclosure by statute; (4) trade secrets and commercial or financial information obtained from any person and privileged or confidential; (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency; (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (7) investigatory files compiled for law enforcement purposes except to the extent available by law to a private party; (8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and (9) geological and geophysi-

EXISTING LAW

cal information and data (including maps) concerning wells.

NEW TEXT

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

(f) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(f) LIMITATION OF EXEMPTIONS.—Nothing in this section authorizes withholding of information or limiting the availability of records to the public except as specifically stated in this section, nor shall this section be authority to withhold information from Congress.

(g) PRIVATE PARTY.—As used in this section, “private party” means any party other than an agency.

(h) EFFECTIVE DATE.—This amendment shall become effective one year following the date of the enactment of this Act.

90TH CONGRESS
1ST SESSION

H. R. 5357

[Report No. 125]

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 1967

Mr. WILLIS introduced the following bill; which was referred to the Committee on the Judiciary

MARCH 14, 1967

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend section 552 of title 5, United States Code, to codify the provisions of Public Law 89-487.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 552 of title 5, United States Code, is amended
4 to read:

5 “§ 552. Public information; agency rules, opinions, orders,
6 records, and proceedings

7 “(a) Each agency shall separately state and currently
8 publish in the Federal Register for the guidance of the
9 public—

10 “(1) descriptions of its central and field organiza-
11 tion and the established places at which, the employees

1 from whom, and the methods whereby, the public may
2 obtain information, make submittals or requests, or ob-
3 tain decisions;

4 “(2) statements of the general course and method
5 by which its functions are channeled and determined,
6 including the nature and requirements of all formal and
7 informal procedures available;

8 “(3) rules of procedure, descriptions of forms avail-
9 able or the places at which forms may be obtained,
10 and instructions as to the scope and contents of all
11 papers, reports, or examinations;

12 “(4) substantive rules of general applicability
13 adopted as authorized by law, and statements of general
14 policy or interpretations of general applicability formu-
15 lated and adopted by the agency; and

16 “(5) each amendment, revision, or repeal of the
17 foregoing.

18 Except to the extent that a person has actual and timely
19 notice of the terms thereof, a person may not in any manner
20 be required to resort to, or be adversely affected by, a mat-
21 ter required to be published in the Federal Register and not
22 so published. For the purpose of this subsection, matter
23 reasonably available to the class of persons affected thereby
24 is deemed published in the Federal Register when incor-

1 porated by reference therein with the approval of the Di-
2 rector of the Federal Register.

3 “(b) Each agency, in accordance with published rules,
4 shall make available for public inspection and copying—

5 “(1) final opinions, including concurring and dis-
6 senting opinions, as well as orders, made in the adjudi-
7 cation of cases;

8 (2) those statements of policy and interpretations
9 which have been adopted by the agency and are not
10 published in the Federal Register; and

11 “(3) administrative staff manuals and instructions
12 to staff that affect a member of the public;

13 unless the materials are promptly published and copies of-
14 fered for sale. To the extent required to prevent a clearly
15 unwarranted invasion of personal privacy, an agency may
16 delete identifying details when it makes available or pub-
17 lishes an opinion, statement of policy, interpretation, or staff
18 manual or instruction. However, in each case the justifica-
19 tion for the deletion shall be explained fully in writing.
20 Each agency also shall maintain and make available for
21 public inspection and copying a current index providing
22 identifying information for the public as to any matter issued,
23 adopted, or promulgated after July 4, 1967, and required by
24 this subsection to be made available or published. A final

1 order, opinion, statement of policy, interpretation, or staff
2 manual or instruction that affects a member of the public
3 may be relied on, used, or cited as precedent by an agency
4 against a party other than an agency only if—

5 “(A) it has been indexed and either made avail-
6 able or published as provided by this subsection; or

7 “(B) the party has actual and timely notice of the
8 terms thereof.

9 “(c) Except with respect to the records made avail-
10 able under subsections (a) and (b) of this section, each
11 agency, on request for identifiable records made in accord-
12 ance with published rules stating the time, place, fees to the
13 extent authorized by statute, and procedure to be followed,
14 shall make the records promptly available to any person.
15 On complaint, the district court of the United States in the
16 district in which the complainant resides, or has his prin-
17 cipal place of business, or in which the agency records are
18 situated, has jurisdiction to enjoin the agency from with-
19 holding agency records and to order the production of any
20 agency records improperly withheld from the complainant.
21 In such a case the court shall determine the matter de novo
22 and the burden is on the agency to sustain its action. In
23 the event of noncompliance with the order of the court, the
24 district court may punish the responsible employees for con-
25 tempt. Except as to causes the court considers of greater

1 importance, proceedings before the district court, as author-
2 ized by this subsection, take precedence on the docket over
3 all other causes and shall be assigned for hearing and trial
4 at the earliest practicable date and expedited in every way.

5 “(d) Each agency having more than one member shall
6 maintain and make available for public inspection a record
7 of the final votes of each member in every agency pro-
8 ceeding.

9 “(e) This section does not apply to matters that are—

10 “(1) specifically required by Executive order to be
11 kept secret in the interest of the national defense or
12 foreign policy;

13 “(2) related solely to the internal personnel rules
14 and practices of an agency;

15 “(3) specifically exempted from disclosure by
16 statute;

17 “(4) trade secrets and commercial or financial in-
18 formation obtained from a person and privileged or
19 confidential;

20 “(5) inter-agency or intra-agency memorandums
21 or letters which would not be available by law to a party
22 other than an agency in litigation with the agency;

23 “(6) personnel and medical files and similar files
24 the disclosure of which would constitute a clearly un-
25 warranted invasion of personal privacy;

90TH CONGRESS
1ST SESSION

H. R. 5357

[Report No. 125]

A BILL

To amend section 552 of title 5, United States Code, to codify the provisions of Public Law 89-487.

By Mr. WILLIS

FEBRUARY 13, 1967

Referred to the Committee on the Judiciary

MARCH 14, 1967

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
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FOR INFORMATION ONLY;
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Issued April 4, 1967
For actions of April 3, 1967
90th-1st; No. 48

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HIGHLIGHTS: Rep. Findley inserted article, "...Congress Should Probe the CCC's Export Credit Sales Program." Rep. Nelsen stated USDA has caused "declines in farm prices. Rep. May spoke in support of proposed Agricultural Producers Marketing Act. Sens. Carlson and Pearson inserted letters dealing with "decline in farm income." Rep. Horton urged relief for dairy farmers.

SENATE

1. FARM PRICES. Sens. Carlson and Pearson inserted two letters urging action by Congress and the Administration to boost farm parity. pp. S4417-8, S4427
2. NATIONAL MONUMENT. The Interior and Insular Affairs Committee reported with amendments S. 25, to provide for the establishment of the Great Salt Lake National Monument. (S. Rept. 84) p. S4405

3. ECONOMY; TAXATION. Began consideration of H. R. 6950, to restore investment tax credit and allowance of accelerated depreciation in the case of certain real property, and several amendments to this bill were submitted. pp. S4415, S4451-68
4. FARM CREDIT. Sens. Carlson and Cooper commended the farm credit system on its 50th anniversary and Sen. Carlson inserted a speech commemorating this occasion pp. S4416-7, S4449-50
5. INTERNATIONAL BRIDGES. Passed without amendment S. 623, granting congressional consent for the construction of international bridges. pp. S4420-22
6. NATIONAL PARKS. Sen. Jackson announced hearings by the Parks and Recreation Subcommittee of the Interior and Insular Affairs Committee on legislation to create a Redwood National Park to begin on April 17. p. S4415
7. NONIMATIONS. Received the nomination of Jonathan Davis to be a member of the Farm Credit Board, Farm Credit Administration. p. S4468

HOUSE

8. INFORMATION. Passed without amendment H. R. 5357, to amend the U. S. Code, to codify the provisions of Public Law 89-487 regarding the publication in the Federal Register of public information, rules, etc., of agencies. pp. H3413-14
9. PERSONNEL. Passed as reported H. R. 5876, to amend the U. S. Code, relative to codifying, repealing, and amending numerous personnel laws. pp. H3412-13
10. EXPENDITURES. Rep. Mahon inserted a tabulation of budget receipts and expenditures for the first 8 months of the current fiscal year. pp. H3396-7
11. FEDERAL RESERVE. Rep. Patman discussed the President's decisions on the Federal Reserve Board appointments and urged legislation to bring "permanent reform to the Federal Reserve System so that we do not face crisis after crisis in our monetary policies." pp. H3399-3400
12. BANKS. Several Representatives paid tribute to the Federal land banks and farm credit system on their 50th anniversary. pp. H3403-4, H3432-63
13. POSTAL SERVICE. Reps. Albert and Udall inserted an address by Postmaster General O'Brien, "A New Design for the Postal Service." pp. H3404-6, H3474-6
14. AIR POLLUTION. Rep. Ryan inserted a report concerning the potential and feasibility of the use of the electric car in combating air pollution. pp. H3415-17
15. CCC. Rep. Findley inserted an article, "Loophole or Rathole?--Congress Should Probe the CCC's Export Credit Sales Program." pp. H3420-22
16. FARM PRICES. Rep. Nelsen inserted the text of a wire he sent Secretary Freeman which stated "...Three hundred percent increase in dairy imports and lowest farm parity ratio since 1934 emphasize need to relieve pressure on income of our dairy farmers." p. H3427

Mr. GROSS. Mr. Speaker, reserving the right to object, I should like to ask someone in connection with this bill, since it is a complex measure, if it pertains only to what Public Law 89-718, title 37, and title 5, Public Law 89-554, and makes no substantive changes with respect to those laws?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I am glad to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. The gentleman is correct in reference to the changes made. They are limited only to the sections to which he has referred.

Mr. GROSS. And it corrects only errors and phraseology?

Mr. KASTENMEIER. That is correct; without any substantive change whatsoever.

Mr. GROSS. The gentleman gives us full assurance that it makes no substantive change in the laws?

Mr. KASTENMEIER. The gentleman is correct. It makes no such change.

Mr. GROSS. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

Mr. PELLY. Mr. Speaker, reserving the right to object, as I understand this is really a simple codification of existing law, and in accordance with precedent, and in view of the fact that this is a long bill, I would ask unanimous consent that we waive printing in the RECORD.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. PELLY. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. The committee has no objection to that. This is a long bill, and consistent with the practice the committee has adhered to in the past, of waiving the printing in full of these long bills. The committee has no objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington that the printing of the bill in the RECORD be waived?

There was no objection.

The Clerk read the following committee amendments:

On page 45, strike out line 17 and insert in place thereof:

"§ 8124. Findings and award; hearings

On page 70, after line 17, insert the following:

"(98) Section 903(a)(5) is amended by striking out 'an officer in the civil service or uniformed services' and inserting in place thereof 'an officer in the civil service, or a uniformed service, or of the government of the District of Columbia.'"

On page 73, after line 15, insert the following:

"(h) Section 1(3), (10), (11), (12), (23), (83), (A) and (D), (89), and (98) of this Act is effective as of September 6, 1966, for all purposes.

"(i) Section 2 of this Act is effective as of November 2, 1966, for all purposes."

Mr. ROTH. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I ask that one of the members of the Judiciary Committee tell the House whether the bill makes any substantive change.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman from Delaware yield?

Mr. ROTH. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, the gentleman is correct. As I responded to the gentleman from Iowa, this bill simply incorporates several titles into the United States Code, without any substantive change whatsoever, of recent laws that were not enacted as direct amendments. That is all it does.

The committee amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CODIFICATION OF PUBLIC LAW 89-487

The Clerk called the bill (H.R. 5357) to amend section 552 of title 5, United States Code, to codify the provisions of Public Law 89-487.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, reserving the right to object, it is my understanding, although it is not so stated in the report, that these changes were recommended by the Department of Justice. Will the gentleman from the Committee on the Judiciary confirm this?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman from Missouri yield?

Mr. HALL. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, these are not actual changes, but this procedure, incorporating this entire title 5, was recommended by the Department of Justice.

Mr. HALL. Mr. Speaker, I would like to inquire further as to whether this would in any way aid or abet what has come about as a result of the Reorganization Act of 1949, which makes it possible to print in the Federal Register a reorganization of one of the executive branches, with the full effect and weight of law if not objected to by resolution on the part of one of the two Houses of Congress within a requisite number of days? Is there anything within these changes of the provisions of Public Law 89-487 which would make this power of the "veto in reverse"—as I have referred to in the provision—more applicable?

In other words, what I am getting at is, will it further relegate any of the powers of the Congress to the executive branch of the Government?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman from Missouri yield?

Mr. HALL. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, I assure the gentleman this does not have that effect. This does not change in any respect the powers of Congress or the executive branch.

Mr. HALL. We do have the gentleman's full assurance that on this bill there is no substantive change, and that it is really a technical and conforming amendment which has nothing to do with the "veto in reverse"?

Mr. KASTENMEIER. Mr. Speaker, if the gentleman from Missouri will yield further, the bill simply incorporates into

title 5, without any substantive change, an amendment of the Administrative Procedures Act. This bill incorporates into title 5 of the United States Code, without substantive change, the provisions of Public Law 89-487. That law was not amended by title 5, which was enacted by Public Law 89-554, but which codified the Administrative Procedures Act.

For this reason we have so recommended.

Mr. HALL. I appreciate the gentleman's explanation.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the gentleman from Iowa.

Mr. GROSS. This would confer no greater power upon the 10th Judicial Conference or upon any other judicial conference in the country; is that correct?

Mr. KASTENMEIER. If the gentleman will yield further, I assure the gentleman it will not.

Mr. HALL. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

H.R. 5357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 552 of title 5, United States Code, is amended to read:

"§ 552. Public information; agency rules, opinions, orders, records, and proceedings

"(a) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

"(1) descriptions of its central and field organization and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

"(2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

"(3) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

"(4) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

"(5) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this subsection, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

"(b) Each agency, in accordance with published rules, shall make available for public inspection and copying—

"(1) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

"(2) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

"(3) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this subsection to be made available or published. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

"(A) it has been indexed and either made available or published as provided by this subsection; or

"(B) the party has actual and timely notice of the terms thereof.

"(c) Except with respect to the records made available under subsections (a) and (b) of this section, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish the responsible employees for contempt. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this subsection, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(d) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

"(e) This section does not apply to matters that are—

"(1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

"(2) related solely to the internal personnel rules and practices of an agency;

"(3) specifically exempted from disclosure by statute;

"(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

"(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

"(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

"(7) investigatory files compiled for law enforcement purposes except to the extent

available by law to a party other than an agency;

"(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

"(9) geological and geophysical information and data, including maps, concerning wells.

"(f) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress."

SEC. 2. The analysis of chapter 5 of title 5, United States Code, is amended by striking out:

"552. Publication of information, rules, opinions, orders, and public records."

and inserting in place thereof:

"552. Public information; agency rules, opinions, orders, records, and proceedings."

SEC. 3. The Act of July 4, 1966 (Public Law 89-487, 80 Stat. 250), is repealed.

SEC. 4. This Act shall be effective July 4, 1967, or on the date of enactment, whichever is later.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LAND TRANSFER TO MEMPHIS STATE UNIVERSITY

The Clerk called the bill (H.R. 4717) to authorize the conveyance of certain lands owned by the United States to the State of Tennessee for the use of Memphis State University, Memphis, Tenn.

There being no objection, the Clerk read the bill, as follows:

H.R. 4717

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs is authorized and directed to convey, without consideration, to the State of Tennessee for the use of Memphis State University, Memphis, Tennessee, all right, title, and interest of the United States in and to that tract of land constituting the grounds of the Kennedy Veterans' Hospital in Memphis, Tennessee, including the improvements thereon, containing one hundred and forty-six acres, more or less, and being the same tract of land acquired by the United States for hospital purposes and paid for by the city of Memphis and county of Shelby, Tennessee, and which, upon completion of a new veterans' hospital presently under construction at another site in the city of Memphis, will be excess to the needs of the Veterans' Administration.

SEC. 2. (a) The conveyance authorized by the first section of this Act shall be made not later than December 31, 1970, and may be made at any time prior to such date if the Administrator of Veterans' Affairs determines that the property to be conveyed is no longer needed by the Veterans' Administration.

(b) The Administrator of Veterans' Affairs is authorized to convey any portion or portions of the tract referred to in the first section of this Act prior to the time that he determines that the entire tract is no longer needed by the Veterans' Administration, if he determines that (1) such portion or portions are no longer needed by the Veterans' Administration, (2) the conveyance of such

portion or portions will not interfere with activities of the Veterans' Administration still being carried out on the lands at the Veterans' Administration not yet conveyed, and (3) the conveyance of such portion or portions will facilitate the conversion of such property to educational uses by Memphis State University.

SEC. 3. Any deed of conveyance made pursuant to this Act shall contain such additional terms, conditions, reservations, easements, and restrictions as may be determined by the Administrator of Veterans' Affairs to be necessary to protect the interest of the United States.

SEC. 4. The property conveyed pursuant to this Act shall be used solely for educational purposes, and if such property is ever used for purposes other than educational purposes, title thereto shall revert to, and become the property of, the United States which shall have the right of immediate entry thereon.

SEC. 5. Memphis State University shall pay the cost of such surveys as may be necessary to determine the exact legal description of the real property to be conveyed and shall bear all other expenses in connection with the preparation and recording of the necessary legal documents.

Mr. SAYLOR. Mr. Speaker, the bill directs the Administrator of Veterans' Affairs to convey not later than December 31, 1970, without consideration, to the State of Tennessee for the use of Memphis State University, all right, title, and interest of the United States to a tract of land approximately 146 acres with improvements thereon which constitute the present Veterans' Administration hospital at Memphis, Tenn. This hospital is being replaced by a new structure which will be opened in the immediate future.

Other sections of the bill contain authority for such additional terms and conditions so as to fully protect the interest of the United States.

The then War Department, on August 26, 1946, transferred to the Veterans' Administration 146 acres and 121 buildings and structures which the Veterans' Administration presently operates as a 1,091-bed hospital.

An ownership map of the property, prepared by the Corps of Engineers in 1944, indicates that 129.06 acres were donated by the city of Memphis and 17.27 acres were acquired from private ownership.

The Veterans' Administration has no objection to the favorable consideration of the proposal and there would be no requirement for an additional appropriation to meet this proposed land transfer.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EVERETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and include extraneous matter at this point in the RECORD on my bill, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

90TH CONGRESS
1ST SESSION

H. R. 5357

IN THE SENATE OF THE UNITED STATES

APRIL 4, 1967

Read twice and referred to the Committee on the Judiciary

AN ACT

To amend section 552 of title 5, United States Code, to codify the provisions of Public Law 89-487.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 552 of title 5, United States Code, is amended

4 to read:

5 **“§ 552. Public information; agency rules, opinions, orders,**
6 **records, and proceedings**

7 **“(a) Each agency shall separately state and currently**
8 **publish in the Federal Register for the guidance of the**
9 **public—**

10 **“(1) descriptions of its central and field organiza-**
11 **tion and the established places at which, the employees**

1 from whom, and the methods whereby, the public may
2 obtain information, make submittals or requests, or ob-
3 tain decisions;

4 “(2) statements of the general course and method
5 by which its functions are channeled and determined,
6 including the nature and requirements of all formal and
7 informal procedures available;

8 “(3) rules of procedure, descriptions of forms avail-
9 able or the places at which forms may be obtained,
10 and instructions as to the scope and contents of all
11 papers, reports, or examinations;

12 “(4) substantive rules of general applicability
13 adopted as authorized by law, and statements of general
14 policy or interpretations of general applicability formu-
15 lated and adopted by the agency; and

16 “(5) each amendment, revision, or repeal of the
17 foregoing.

18 Except to the extent that a person has actual and timely
19 notice of the terms thereof, a person may not in any manner
20 be required to resort to, or be adversely affected by, a mat-
21 ter required to be published in the Federal Register and not
22 so published. For the purpose of this subsection, matter
23 reasonably available to the class of persons affected thereby
24 is deemed published in the Federal Register when incor-

1 porated by reference therein with the approval of the Di-
2 rector of the Federal Register.

3 “(b) Each agency, in accordance with published rules,
4 shall make available for public inspection and copying—

5 “(1) final opinions, including concurring and dis-
6 senting opinions, as well as orders, made in the adjudi-
7 cation of cases;

8 “(2) those statements of policy and interpretations
9 which have been adopted by the agency and are not
10 published in the Federal Register; and

11 “(3) administrative staff manuals and instructions
12 to staff that affect a member of the public;

13 unless the materials are promptly published and copies of-
14 fered for sale. To the extent required to prevent a clearly
15 unwarranted invasion of personal privacy, an agency may
16 delete identifying details when it makes available or pub-
17 lishes an opinion, statement of policy, interpretation, or staff
18 manual or instruction. However, in each case the justifica-
19 tion for the deletion shall be explained fully in writing.

20 Each agency also shall maintain and make available for
21 public inspection and copying a current index providing
22 identifying information for the public as to any matter issued,
23 adopted, or promulgated after July 4, 1967, and required by
24 this subsection to be made available or published. A final

1 order, opinion, statement of policy, interpretation, or staff
2 manual or instruction that affects a member of the public
3 may be relied on, used, or cited as precedent by an agency
4 against a party other than an agency only if—

5 “(A) it has been indexed and either made avail-
6 able or published as provided by this subsection; or

7 “(B) the party has actual and timely notice of the
8 terms thereof.

9 “(c) Except with respect to the records made avail-
10 able under subsections (a) and (b) of this section, each
11 agency, on request for identifiable records made in accord-
12 ance with published rules stating the time, place, fees to the
13 extent authorized by statute, and procedure to be followed,
14 shall make the records promptly available to any person.
15 On complaint, the district court of the United States in the
16 district in which the complainant resides, or has his prin-
17 cipal place of business, or in which the agency records are
18 situated, has jurisdiction to enjoin the agency from with-
19 holding agency records and to order the production of any
20 agency records improperly withheld from the complainant.
21 In such a case the court shall determine the matter de novo
22 and the burden is on the agency to sustain its action. In
23 the event of noncompliance with the order of the court, the
24 district court may punish the responsible employees for con-
25 tempt. Except as to causes the court considers of greater

1 importance, proceedings before the district court, as author-
2 ized by this subsection, take precedence on the docket over
3 all other causes and shall be assigned for hearing and trial
4 at the earliest practicable date and expedited in every way.

5 “(d) Each agency having more than one member shall
6 maintain and make available for public inspection a record
7 of the final votes of each member in every agency pro-
8 ceeding.

9 “(e) This section does not apply to matters that are—

10 “(1) specifically required by Executive order to be
11 kept secret in the interest of the national defense or
12 foreign policy;

13 “(2) related solely to the internal personnel rules
14 and practices of an agency;

15 “(3) specifically exempted from disclosure by
16 statute;

17 “(4) trade secrets and commercial or financial in-
18 formation obtained from a person and privileged or
19 confidential;

20 “(5) inter-agency or intra-agency memorandums
21 or letters which would not be available by law to a party
22 other than an agency in litigation with the agency;

23 “(6) personnel and medical files and similar files
24 the disclosure of which would constitute a clearly un-
25 warranted invasion of personal privacy;

“(7) investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

“(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

“(9) geological and geophysical information and data, including maps, concerning wells.”

“(f) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.”

SEC. 2. The analysis of chapter 5 of title 5, United States Code, is amended by striking out:

“552. Publication of information, rules, opinions, orders, and public records.”

and inserting in place thereof:

“552. Public information; agency rules, opinions, orders, records, and proceedings.”

1 SEC. 3. The Act of July 4, 1966 (Public Law 89-487,
2 80 Stat. 250), is repealed.

3 SEC. 4. This Act shall be effective July 4, 1967, or on
4 the date of enactment, whichever is later.

Passed the House of Representatives April 3, 1967.

Attest:

W. PAT JENNINGS,

Clerk.

AN ACT

To amend section 552 of title 5, United States Code, to codify the provisions of Public Law 89-487.

APRIL 4, 1967

Read twice and referred to the Committee on the Judiciary

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

Issued May 18, 1967
For actions of May 17, 1967
90th-1st; No. 77

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HIGHLIGHTS: Senate passed Interior appropriation bill. Senate committee reported supplemental appropriation bill. House passed independent offices appropriation bill.

SENATE

1. APPROPRIATIONS. Passed with amendments H. R. 9029, the Interior appropriation bill, including Forest Service items. Senate conferees were appointed. pp. S7039-46

The Appropriations Committee reported with amendments H. R. 9481, the supplemental appropriation bill for 1967 (S. Rept. 237). p. S6970

2. FARMER'S WEEK. The Judiciary Committee reported without amendment S. J. Res. 19, providing for the establishment of an annual National Farmer's Week (S. Rept. 240). p. S6970

3. HOUSING. The Judiciary Committee reported without amendment S. J. Res. 69, requesting the President to proclaim May of each year as National Home Improvement Month (S. Rept. 245). p. S6970
4. INFORMATION. The Judiciary Committee reported with amendments H. R. 5357, to codify provisions of Public Law 89-487, to clarify the right of the public to information (S. Rept. 248). ~~p. S6970~~
5. PERSONNEL. Passed as reported S. 1785, providing for increased benefits for Federal employees serving in positions involving personal hardship or in hazardous areas. pp. S6995-8
6. FOREIGN TRADE. Sen. Holland announced that Secretary Freeman and Under Secretary Schnittker will appear before the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Agriculture and Forestry Committee on May 19 to discuss the agricultural aspects of the trade agreements reached at the Kennedy Round trade negotiations. p. S7010
7. FORESTRY. Sen. Morse commended the work of the Forest Service and inserted a report on national forest operations in the Pacific northwest. pp. S7051-4
8. FARM LOANS. Sen. Morse inserted a resolution passed by the Oreg. Legislature memorializing Congress to "refrain from restricting, by legislative or other means, the availability of credit for agricultural loans." p. S7054
9. FEDERAL EMPLOYMENT. Sen. Brewster commended the President's job-freeze order and stated that this order "has been very effective." pp. S7054-5
10. TRUTH-IN-LENDING. Sen. Young, Ohio, urged the enactment of S. 5, the truth-in-lending bill. p. S6992
Sen. Proxmire inserted testimony of the Federal Reserve Board endorsing the truth-in-lending bill. p. S7000
11. POVERTY. Sen. Bayh commended OEO for making a poverty grant for the employment of agricultural, marketing, and business specialists in a 10 county rural area of Ala. pp. S7006-7
12. VETERANS. The Labor and Public Welfare ^{Committee} ordered favorably reported with amendment (but did not actually report) S. 9, to broaden benefits to veterans of the post-Korean period. p. D402
13. TRANSPORTATION. Sen. Scott inserted an article in favor of S. 1314, to modernize certain restrictions upon the application and scope of the exemptions applying to inland barge lines. p. S7009

HOUSE

14. APPROPRIATIONS. Passed, 347-56, with amendments H. R. 9960, the independent offices and HUD appropriation bill (pp. H5640-69). This bill includes items for the Office of Emergency Planning, Office of Science and Technology, Civil Service Commission, Commission on Political Activity of Government Personnel, Federal Trade Commission, General Services Administration, Interstate Commerce Commission, Selective Service System, Veterans Administration, and Department of Housing and Urban Development. The committee report includes the following

AMENDING SECTION 552 OF TITLE 5, UNITED STATES CODE

MAY 17, 1967.—Ordered to be printed

Mr. ERVIN, from the Committee on the Judiciary, submitted
the following

R E P O R T

[To accompany H.R. 5357]

The Committee on the Judiciary, to which was referred the bill (H.R. 5357), an act to amend section 552 of title 5, United States Code, to codify the provisions of Public Law 89-487, having considered the same, reports favorably thereon, with amendments, and recommends that the bill as amended do pass.

AMENDMENTS

(1) Page 1, commencing with line 7, strike out down to and including line 8 on page 5, and insert in lieu thereof:

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and pro-

cedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(4) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(2) Page 5, line 9, strike out "(e)" and insert in lieu thereof "(b)".

(3) Page 6, line 10, strike out "(f)" and insert in lieu thereof "(c)".

EXPLANATION OF AMENDMENTS

Amendment (1). This amends section 1 of the bill by combining subsections (a)-(d) into a single subsection (a) that contains the introductory clause now appearing in the source statute (Public Law 89-487). Subsections (a)-(d) are restated in the new subsection (a) as paragraphs (1)-(4). Specific reference to members of the uniformed services are included in paragraphs (1)(A) and (3) so as to retain the coverage of the source statute. Aside from clerical changes to reflect the new arrangement, no other changes in wording are made.

Amendments (2) and (3). These amend section 1 of the bill by redesignating subsections (e) and (f) as subsections (b) and (c), respectively, and are made to conform with the changes made by amendment (1).

PURPOSE OF THE BILL

The purpose of this bill is to incorporate into title 5 of the United States Code, without substantive change, the provisions of Public Law 89-487, which was enacted subsequent to the passage of title 5 by the House of Representatives.

Title 5, enacted by Public Law 89-554, contained the Administrative Procedure Act as amended through June 30, 1965. The amendment to that act by Public Law 89-487 becomes effective July 4, 1967, but was not drafted as an amendment to title 5.

SECTION ANALYSIS

SECTION 1

Section 1 amends section 552 of title 5, United States Code, to reflect Public Law 89-487.

In subsection (a)(1)(A), the words "employees (and in the case of a uniformed service, the member)" are substituted for "officer" to retain the coverage of Public Law 89-487 and to conform to the definitions in 5 U.S.C. 2101, 2104, and 2105.

In the last sentence of subsection (a)(2), the words "A final order * * * may be relied on * * * only if" are substituted for "No final order * * * may be relied upon * * * unless"; and the words "a party other than an agency" and "the party" are substituted for "a private party" and "the private party", respectively, on authority of the definition of "private party" in 5 App. U.S.C. 1002(g).

In subsection (a)(3), the words "the responsible employee, and in the case of a uniformed service, the responsible member" are substituted for "the responsible officers" to retain the coverage of Public Law 89-487 and to conform to the definitions in 5 U.S.C. 2101, 2104, and 2105.

In subsection (a)(4), the words "shall maintain and make available for public inspection a record" are substituted for "shall keep a record * * * and that record shall be available for public inspection".

In subsection (b) (5) and (7), the words "a party other than an agency" are substituted for "a private party" on authority of the definition of "private party" in 5 App. U.S.C. 1002(g).

In subsection (c), the words "This section does not authorize" and "This section is not authority" are substituted for "Nothing in this section authorizes" and "nor shall this section be authority", respectively.

5 App. U.S.C. 1002(g), defining "private party" to mean a party other than an agency, is omitted since the words "party other than an agency" are substituted for the words "private party" wherever they appear in revised 5 U.S.C. 552.

5 App. U.S.C. 1002(h), prescribing the effective date, is omitted as unnecessary. That effective date is prescribed by section 4 of this bill.

SECTION 2

Section 2 amends the analysis of chapter 5 of title 5, United States Code, to reflect the change in the catchline for section 552 of title 5.

SECTION 3

Section 3 repeals the act of July 4, 1966, Public Law 89-487 (80 Stat. 250).

SECTION 4

Section 4 prescribes the effective date of the bill as July 4, 1967, or the date of enactment of the bill, whichever is later. This conforms with the effective date of Public Law 89-487 which is repealed by this bill.

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law are shown below:

EXISTING LAW

(Sec. 3 of Administrative Procedure Act, as amended by Public Law 89-487)

SEC. 3. Every agency shall make available to the public the following information:

(a) PUBLICATION IN THE FEDERAL REGISTER.—Every agency shall separately state and currently publish in the Federal Register for the guidance of the public (A) descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions; (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available; (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; (D) substantive rules of general applicability adopted as authorized by law; and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and (E) every amendment, revision, or repeal of the foregoing. Except to the extent that a person has

NEW TEXT

(Sec. 552 of title 5, United States Code)

§ 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and

EXISTING LAW

actual and timely notice of the terms thereof, no person shall in any manner be required to resort to, or be adversely affected by any matter required to be published in the Federal Register and not so published. For purposes of this subsection, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

NEW TEXT

contents of all papers, reports, or examinations; (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

(b) AGENCY OPINIONS AND ORDERS.—Every agency shall, in accordance with published rules, make available for public inspection and copying (A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and (C) administrative staff manuals and instructions to staff that affect any member of the public, unless such materials are promptly published and copies

(C) administrative staff manuals and instructions to staff that affect a member of the public; unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

(i) it has been indexed and either made available or published as provided by this paragraph;

or

(ii) the party has actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records

offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction: *Provided*, That in every case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed and either made available or published as provided by this subsection or unless that private party shall have actual and timely notice of the terms thereof.

(c) AGENCY RECORDS.—Except with respect to the records made available pursuant to subsections (a) and (b), every agency shall, upon request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, make such records promptly

EXISTING LAW

available to any person. Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have jurisdiction to enjoin the agency from the withholding of agency records and to order the production of any agency records improperly withheld from the complainant. In such cases the court shall determine the matter *de novo* and the burden shall be upon the agency to sustain its action. In the event of noncompliance with the court's order, the district court may punish the responsible officers for contempt. Except as to those causes which the court deems of greater importance, proceedings before the district court as authorized by this subsection shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(d) AGENCY PROCEEDINGS.—Every agency having more than one member shall keep a record of the final votes of each member in every agency proceeding and such record shall be available for public inspection.

(e) EXEMPTIONS.—The provisions of this section shall not be applicable to matters that are (1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy; (2) related solely to the internal personnel rules and practices of any agency; (3) specifically exempted from disclosure by statute; (4)

NEW TEXT

promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter *de novo* and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(4) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(b) This section does not apply to matters that are—
(1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(2) related solely to the internal personnel rules and practices of an agency;

trade secrets and commercial or financial information obtained from any person and privileged or confidential; (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency; (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (7) investigatory files compiled for law enforcement purposes except to the extent available by law to a private party; (8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and (9) geological and geophysical information and data (including maps) concerning wells.

(f) **LIMITATION OF EXEMPTIONS.**—Nothing in this section authorizes withholding of information or limiting the availability of records to the public except as specifically stated in this section, nor shall this section be authority to withhold information from Congress.

(g) **PRIVATE PARTY.**—As used in this section, “private party” means any party other than an agency.

(h) **EFFECTIVE DATE.**—This amendment shall become effective one year following the date of the enactment of this Act.

(3) specifically exempted from disclosure by statute;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
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Issued May 22, 1967
For actions of May 19, 1967
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SENATE

1. APPROPRIATIONS. Passed with amendments H. R. 9481, the second supplemental appropriation bill for 1967, after adopting amendments to reduce funds for travel expenses, Civil Service Commission, and to bar use of funds by OEO to establish or operate a newspaper or a radio or TV station. Conferees were appointed. pp. S7134-49

The Appropriations Committee reported with amendments H. R. 7501, appropriations for the Treasury and Post Office Departments, the Executive Office of the President, and certain independent agencies. (S. Rept. 283) p. S7150

2. FOREIGN TRADE. Sen. Carlson discussed and inserted several articles on the effect of the Kennedy Round trade negotiations on American agriculture and farm prices. pp. S7179-80

3. TEXTILE IMPORTS. Sen. Symington urged restrictions on wool textile imports and stated, "In 1966, there was a \$902 million deficit in the U. S. textile balance of trade. This was due in some measure to the growing increase in wool textile imports which rose 125 percent between 1961 and 1966." pp. S7178-9
4. WAR ON HUNGER. Sen. Mondale inserted a speech by Mr. Herbert Waters on "World's No. 1 Problem: Hunger." pp. S7167-9
5. POVERTY. Sen. Javits inserted several articles on the developments of the anti-poverty program and certain "inequities" in this program. pp. S7156-61
6. TAX SHARING. Sen. Muskie discussed and inserted an article on various tax sharing proposals now before Congress. pp. S7171-2
7. TRUTH-IN-LENDING. Sen. Proxmire inserted an article in support of S. 5, the truth-in-lending bill. pp. S7183-5
8. POPULATION. Sen. Fulbright spoke in favor of his bill to authorize funds for population control work and stated his intention to offer the provisions of this bill as an amendment to the 1968 foreign aid bill. pp. S7185-6
9. INFORMATION. Passed as reported H. R. 5357, to codify provisions of Public Law 89-487, to clarify the right of the public to information. pp. S7128-9
10. FOREST FIRES. Passed as reported S. Res. 120, to print as a Senate document a report of OEP concerning forest and grass fires. p. S7129
11. POLLUTION. Sen. Randolph commended the Senate for increasing the funds for air pollution abatement activities over the House passed level. pp. S7149-50
12. WATERSHEDS. Sens. Sparkman and Tower were added as cosponsors to S. 1423, to amend the Watershed Protection and Flood Prevention Act. p. S7153
13. ADJOURNED until Tues. May 23, when the Treasury-Post Office appropriations will be the next item of business. p. S7196

BILL INTRODUCED

14. GOVERNMENT ACTIVITIES. S. Con. Res. 29 by Sen. Miller, to avoid heavy population concentrations in the location of Federal Government activities. Remarks of author pp. S7151-2

0

COMMITTEE HEARINGS MAY 22:

REA financing, H. Agriculture (exec).
Pay bill, H. Civil Service.
Public debt increase, H. Ways and Means (exec).



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PROCEEDINGS AND DEBATES OF THE 90th CONGRESS, FIRST SESSION

Vol. 113

WASHINGTON, FRIDAY, MAY 19, 1967

No. 79

House of Representatives

The House was not in session today. Its next meeting will be held on Monday, May 22, 1967, at 12 o'clock noon.

Senate

FRIDAY, MAY 19, 1967

The Senate met at 10 o'clock a.m., and was called to order by the President pro tempore.

Rev. Edward B. Lewis, pastor, Capitol Hill Methodist Church, Washington, D.C., offered the following prayer:

O God, we pray for courage and direction. Around us we see forces loose which make men's hearts afraid. Today we look upon a world in turmoil. Our spirits at moments are filled with foreboding and a bewildering sense of moral inadequacy for living. Moods of fear of what another day may bring haunt us. We are depressed when we hear and see what war is doing to our very own and our neighbors.

We pray, therefore, for the President and leaders of Government that they might have new courage and insight. There are strong cords within upon which we may call. Lift these faithful servants of the people to new courage, confidence, and faith.

Give to them clear minds, inspired hearts, and direction for peace. We pray in the name of the Prince of Peace. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, May 18, 1967, was dispensed with.

SECOND SUPPLEMENTAL APPROPRIATIONS, 1967

The PRESIDENT pro tempore. Under the order of Wednesday, May 17, the Chair lays before the Senate the unfinished business, which the clerk will state.

The LEGISLATIVE CLERK. A bill (H.R. 9481) making supplemental appropriations for the fiscal year ending June 30, 1967, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I yield myself 3 minutes under the bill.

COMMITTEE MEETINGS DURING SENATE SESSION

On request of Mr. MANSFIELD, and by unanimous consent, all committees were authorized to meet during the session of the Senate today.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures on the calendar, beginning with Calendar No. 229 and the succeeding measures in sequence.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TO INCREASE AMOUNT OF REAL PROPERTY HELD BY THE AMERICAN ACADEMY IN ROME

The bill (S. 281) to increase the amount of real property which may be held by the American Academy in Rome was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to permit the American Academy in Rome to enlarge its purposes, and for other purposes", approved June 6, 1912 (37 Stat. 124), as amended (43 Stat. 635), is hereby amended by striking out "\$10,000,000" and inserting in lieu thereof "\$25,000,000".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report

(No. 238), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to increase the amount of real property which may be held by the American Academy in Rome.

STATEMENT

The act of March 3, 1905 (33 Stat. 1044) created a body corporate in the District of Columbia by the name of the American Academy in Rome, for the purpose of establishing and maintaining an institution to promote the study and practice of the fine arts, and to aid and stimulate the education and training of architects, painters, sculptors, and other artists by enabling such citizens of the United States, selected by competition from among those who have passed with honors through leading technical schools, to develop their powers and complete their training under the most favorable conditions of direction and surroundings. As originally enacted the corporation was empowered to hold real estate and personal property in the United States and in the Kingdom of Italy for the necessary use of the organization to an amount not to exceed \$1 million. Subsequent acts of Congress enlarged the purposes of the Academy, including authorization to hold real and personal property in an amount not to exceed \$10 million.

The Academy now desires to amend its charter so as to permit the amount of property which is allowed to be held from the present \$10 to \$25 million. The committee is informed that the Academy now has endowment funds amounting to approximately \$8,500,000. There are several legacies expected—one in a very substantial sum which would bring the endowment fund to an amount greatly in excess of the present \$10 million limit. The committee is also informed that the Academy feels it is necessary to increase the stipends of its fellows in order to make them as good or better than those of some other institutions which are offering similar scholarships for study

abroad. The Academy's officers feel that they should continue to keep up the standards of the students at the Academy, and that in order to do this increased stipends are absolutely necessary. A drive for additional capital funds is currently being discussed and will probably be started in the near future.

The Academy's officers inform the committee that it is desirable to amend the present charter so that the Academy would not be embarrassed by the charter provisions should they be fortunate enough to interest prospective donors in giving the Academy donations and legacies.

The Department of State has advised the committee that it perceives no objection to the enactment of this legislation from the standpoint of U.S. foreign policy objectives.

The committee is of the opinion that this legislation has a meritorious purpose. If the American Academy in Rome is to continue its anticipated and desirable growth, this charter amendment is necessary. Accordingly, the committee recommends favorable consideration of S. 281, without amendment.

AMENDMENT OF TITLE 5, UNITED STATES CODE

The Senate proceeded to consider the bill (H.R. 5357) to amend section 552 of title 5, United States Code, to codify the provisions of Public Law 89-487 which had been reported from the Committee on the Judiciary, with amendments; on page 1, after line 6, to strike out:

"(a) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

"(1) descriptions of its central and field organization and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

"(2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedure available;

"(3) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

"(4) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

"(5) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this subsection, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

"(b) Each agency, in accordance with published rules, shall make available for public inspection and copying—

"(1) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

"(2) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

"(3) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this subsection to be made available or published. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

"(A) it has been indexed and either made available or published as provided by this subsection; or

"(B) the party has actual and timely notice of the terms thereof.

"(c) Except with respect to the records made available under subsections (a) and (b) of this section, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish the responsible employees for contempt. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this subsection, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(d) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

And, in lieu thereof, to insert:

"(a) Each agency shall make available to the public information as follows:

"(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

"(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

"(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

"(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

"(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

"(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

"(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

"(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

"(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

"(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

"(i) it has been indexed and either made available or published as provided by this paragraph; or

"(ii) the party has actual and timely notice of the terms thereof.

"(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(4) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

On page 9, at the beginning of line 6, to strike out "(c)" and insert "(b)"; and, on page 10, at the beginning of line 9, to strike out "(f)" and insert "(c)".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 248), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of this bill is to incorporate into title 5 of the United States Code, without substantive change, the provisions of Public Law 89-487, which was enacted subsequent to the passage of title 5 by the House of Representatives.

Title 5, enacted by Public Law 89-554, contained the Administrative Procedure Act as amended through June 30, 1965. The amendment to that act by Public Law 89-487 becomes effective July 4, 1967, but was not drafted as an amendment to title 5.

AUTHORITY FOR SENATE TO RESPOND TO OFFICIAL INVITATIONS RECEIVED FROM FOREIGN COUNTRIES

The resolution (S. Res. 115) to authorize the Senate to respond to official invitations received from foreign governments or parliamentary bodies and associations was considered and agreed to, as follows:

Resolved, That the President of the Senate is authorized to appoint as members of official Senate delegations such Members of the Senate as may be necessary to respond to invitations received officially from foreign governments or parliamentary bodies and associations (including the Commonwealth Parliamentary Association) during the Ninetieth Congress, and to designate the chairmen of said delegations.

Sec. 2. (a) The expenses of the delegations, including staff members designated by the chairmen to assist said delegations, shall not exceed \$25,000 for each such delegation, and shall be paid from the contingent fund of the Senate upon vouchers approved by the chairmen of said delegations.

(b) The expenses of each delegation shall include such special expenses as the chairman may deem appropriate to carry out this resolution, including reimbursements to agencies for compensation of employees detailed to each delegation and expenses incurred in connection with providing appropriate hospitality to foreign delegates.

(c) Each member or employee of each delegation shall receive subsistence expenses in an amount not to exceed the maximum per diem rate set forth in section 502 (b) of the Mutual Security Act of 1954, as amended by Public Law 88-633, approved October 7, 1964.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 273), explaining the purposes of the resolution.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 115 would, for the duration of the 90th Congress, authorize the

President of the Senate to respond to invitations officially received from foreign governments or parliamentary bodies and associations (including the Commonwealth Parliamentary Association) by naming official Senate delegates to accept such invitations. The resolution also would authorize the payment of the expenses of such delegations, including those of accompanying staff personnel, from the contingent fund of the Senate, and specifies that the expenses of no single delegation shall exceed \$25,000. Such expenses would include any special expenses the chairman of each delegation might deem appropriate, including reimbursements to agencies for compensation of employees detailed to each delegation and expenses incurred in connection with providing appropriate hospitality to foreign delegates.

A SENATE DOCUMENT ENTITLED "HOW TO OBTAIN DEATH CERTIFICATES"

The resolution (S. Res. 117) to authorize the printing as a Senate document of the compilation entitled "How To Obtain Death Certificates" was considered and agreed to, as follows:

S. RES. 117

Resolved, That the compilation entitled "How To Obtain Death Certificates", prepared by the American Law Division of the Legislative Reference Service, Library of Congress, shall be printed as a Senate document.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 274), explaining the purposes of the resolution.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 117 would authorize the printing of the compilation entitled "How To Obtain Death Certificates", prepared by the American Law Division of the Legislative Reference Service, Library of Congress, as a Senate document.

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate

To print as a document (1,500 copies) -----	\$534.20
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PRINTING AS SENATE DOCUMENT REPORT OF OFFICE OF EMERGENCY PLANNING CONCERNING FOREST AND GRASS FIRES

The resolution (S. Res. 120) to print as a Senate document a report of Office of Emergency Planning concerning forest and grass fires was considered and agreed to, as follows:

S. RES. 120

Provided, That the report of the Office of Emergency Planning concerning forest and grass fires prepared in accordance with the provisions of section 13 of Public Law 89-767, be printed together with illustrations as a Senate document.

Sec. 2. There shall be printed two hundred and fifty additional copies of such document for the use of the Committee on Public Works.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 275), explaining the purposes of the resolution.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 120 would provide that the report of the Office of Emergency Planning concerning forest and grass fires, prepared in accordance with the provisions of section 13 of Public Law 89-767, the Disaster Relief Act of 1966, be printed with illustrations as a Senate document. There would be printed 250 additional copies of such document for the use of the Committee on Public Works.

The printing-cost estimate, supplied by the Public Printer, is as follows:

PRINTING-COST ESTIMATE

To print as a document (1,500 copies) -----	\$2,788.61
250 additional copies, at \$159.23 per thousand -----	39.81

Total estimated cost, S. Res. 120 -----	2,828.42
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PRINTING THE CONSTITUTION OF THE UNITED STATES AS A HOUSE DOCUMENT

The concurrent resolution (H. Con. Res. 200) to print as a House document the Constitution of the United States was considered and agreed to, as follows:

H. CON. RES. 200

Resolved by the House of Representatives (the Senate concurring), That there is authorized to be printed as a House document the Constitution of the United States, as amended through February 1967, with an analytical index and ancillaries regarding proposed amendments, prepared by Representative Emanuel Celler, of New York; and that two hundred and thirty-nine thousand five hundred additional copies be printed, of which twenty thousand shall be for the use of the House Committee on the Judiciary and the balance prorated to the Members of the House of Representatives.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 276), explaining the purposes of the concurrent resolution.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

House Concurrent Resolution 200 would authorize the printing as a House document of the Constitution of the United States, as amended through February 1967, with an analytical index and ancillaries regarding proposed amendments, prepared by Representative Emanuel Celler, of New York. There would be printed 239,500 additional copies of such document, of which 20,000 would be for the use of the House Committee on the Judiciary and the balance (219,500) prorated to the Members of the House of Representatives (500 per Member).

The printing-cost estimate, supplied by the Public Printer, is as follows:

PRINTING-COST ESTIMATE

To print as a document (1,500 copies) -----	\$1,246.76
239,500 additional copies, at \$88.36 per thousand -----	21,169.41

Total estimated cost, H. Con. Res. 200 -----	22,416.17
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PRINTING ADDITIONAL COPIES OF COMMITTEE PRINT ENTITLED "METROPOLITAN AMERICAN: CHALLENGE TO FEDERALISM"

The concurrent resolution (H. Con. Res. 279) authorizing the printing of additional copies of the committee print entitled "Metropolitan American: Chal-

ledge to Federalism" was considered and agreed to as follows:

H. CON. RES. 279

Resolved by the House of Representatives (the Senate concurring), That there be printed for the use of the Committee on Government Operations, House of Representatives five thousand additional copies of its committee print entitled "Metropolitan America: Challenge to Federalism," of the Eighty-ninth Congress, second session.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 277), explaining the purposes of the concurrent resolution.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

House Concurrent Resolution 279 would authorize the printing for the use of the House Committee on Government Operations of 5,000 additional copies of its committee print of the 89th Congress, second session, entitled "Metropolitan America: Challenge to Federalism."

Estimated cost: \$1,930.44.

PRINTING OF ADDITIONAL COPIES OF COMMITTEE HEARINGS ENTITLED "SPECIAL INQUIRY ON INVASION OF PRIVACY" AND "THE COMPUTER AND INVASION OF PRIVACY"

The concurrent resolution (H. Con. Res. 291) authorizing the printing of additional copies of committee hearings entitled "Special Inquiry on Invasion of Privacy" and "The Computer and Invasion of Privacy" was considered and agreed to, as follows:

H. CON. RES. 291

Resolved by the House of Representatives (the Senate concurring), That there be printed for the use of the Committee on Government Operations, House of Representatives, five thousand additional copies of its committee hearings entitled, "Special Inquiry on Invasion of Privacy," and five thousand additional copies of its committee hearings entitled, "The Computer and Invasion of Privacy," of the Eighty-ninth Congress, first and second sessions.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 278), explaining the purposes of the concurrent resolution.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

House Concurrent Resolution 291 would authorize the printing for the use of the House Committee on Government Operations of 5,000 additional copies each of its hearings of the 89th Congress entitled "Special Inquiry on Invasion of Privacy" and "The Computer and Invasion of Privacy," respectively.

Estimated cost: \$6,336.25.

PRINTING OF ADDITIONAL COPIES OF "WORLD COMMUNIST MOVEMENT—SELECTIVE CHRONOLOGY, 1818-1957"

The concurrent resolution (H. Con. Res. 309) authorizing the printing of additional copies of "World Communist Movement—Selective Chronology, 1818-1957" was considered and agreed to, as follows:

H. CON. RES. 309

Resolved by the House of Representatives (the Senate concurring), That there be printed as a House document with three thousand five hundred additional copies for the use of the Committee on Un-American Activities the publication entitled "World Communist Movement—Selective Chronology 1818-1957 Prepared by the Legislative Reference Service of the Library of Congress—Volume 4, 1954-55," Eighty-ninth Congress, first session.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 279), explaining the purposes of the concurrent resolution.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

House Concurrent Resolution 309 would authorize the printing as a House document of the publication entitled "World Communist Movement—Selective Chronology 1818-1957," prepared by the Legislative Reference Service of the Library of Congress—volume 4 1954-55, 89th Congress, first session. There would be printed 3,500 additional copies of such document for the use of the House Committee on Un-American Activities.

The printing-cost estimate, supplied by the Public Printer, is as follows:

PRINTING-COST ESTIMATE	
To print as a document (1,500 copies)	\$1,394.52
3,500 additional copies, at \$288.70 per thousand	1,010.45
Total estimated cost, H. Con. Res. 309	2,404.97

PRINTING AS HOUSE DOCUMENT "HOW OUR LAWS ARE MADE"

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 221) to print as a House document "How Our Laws Are Made," which had been reported from the Committee on Rules and Administration with an amendment at the top of page 2, to insert a new section, as follows:

SEC. 2. There shall also be printed fifty-one thousand five hundred additional copies of such document for the use of the Senate.

The amendment was agreed to. The concurrent resolution, as amended, was agreed to, as follows:

H. CON. RES. 221

Resolved by the House of Representatives (the Senate concurring), That the brochure entitled "How Our Laws Are Made", by Doctor Charles J. Zinn, law revision counsel of the House of Representatives Committee on the Judiciary, as set out in House Document 164 of the Eighty-ninth Congress, be printed as a House document, with emendations by the author and with a foreword by the Honorable Edwin E. Willis; and that there be printed two hundred and thirty-nine thousand five hundred additional copies, of which twenty thousand shall be for the use of the Committee on the Judiciary and the balance prorated to the Members of the House of Representatives.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 280), explaining the purposes of the concurrent resolution.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

House Concurrent Resolution 221 as referred would provide that the brochure entitled "How Our Laws Are Made," by Dr. Charles J. Zinn, law revision counsel of the House of Representatives Committee on the Judiciary, as set out in House Document 164 of the 89th Congress, be printed as a House document, with emendations by the author and with a foreword by the Honorable Edwin E. Willis; and that there be printed 239,500 additional copies of such document, of which 20,000 would be for the use of the House Committee on the Judiciary and 219,500 would be for the use of the House of Representatives (500 per Member).

The Committee on Rules and Administration has amended House Concurrent Resolution 221 to provide 51,500 copies of the document for the use of the Senate. This increase—from 239,500 to 291,000—in the additional copies authorized would provide each Member of the Senate with 500 copies of the document for his use, the same quantity which would be provided for Members of the House of Representatives.

The printing-cost estimate, supplied by the Public Printer, is as follows:

PRINTING-COST ESTIMATE	
To print as a document (1,500 copies)	\$1,695.08
291,000 additional copies, at \$62.17 per thousand	18,091.47
Total estimated cost, H. Con. Res. 221, as amended	19,786.55

PRINTING OF ADDITIONAL COPIES OF THE HEARINGS ENTITLED "FEDERAL ROLE IN URBAN AFFAIRS"

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 23) authorizing the printing of additional copies of the hearings entitled "Federal Role in Urban Affairs" which had been reported from the Committee on Rules and Administration with an amendment in line 4, after the word "through", to strike out "6" and insert "7"; so as to make the concurrent resolution read:

S. CON. RES. 23

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Government Operations two thousand additional copies each of parts 1 through 7, inclusive, of the hearings entitled "Federal Role in Urban Affairs," which were held by that committee during the Eighty-ninth Congress, second session.

The amendment was agreed to. The concurrent resolution, as amended, was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 281), explaining the purposes of the concurrent resolution.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Concurrent Resolution 23, as referred, would authorize the printing for the use of the Senate Committee on Government Operations of 2,000 additional copies each of parts 1 through 6, of the hearings entitled "Federal Role in Urban Affairs," held by its Subcommittee on Executive Reorganization during the 89th Congress, second session.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar.

HOUSE - May 25, 1967

15. APPROPRIATIONS. Passed with amendment H. R. 10196, the Labor, HEW, and related agencies appropriation bill. pp. H6205-38
 16. COMMITTEE. The resignation of Rep. Stuckey from the Agriculture Committee was accepted. p. H6193
 17. TAXATION. Adopted the conference report on H. R. 6950, to restore the investment credit and the allowance of accelerated depreciation in the case of certain real property. pp. H6194-97
 18. INFORMATION. Concurred in Senate amendments to H. R. 5357, to codify the provisions of Public Law 89-487 regarding the publication in the Federal Register of public information, rules, etc., of agencies. This bill will now be sent to the President. pp. H6202-3
 19. SELECTIVE SERVICE. Passed with amendments S. 1432, to amend the Universal Military Training and Service Act. Conferees were appointed. Senate conferees have not yet been appointed. pp. H6239-300
 20. PUBLIC DEBT. The Ways and Means Committee was given to midnight, June 3, to file a report on H. R. 10328, to increase the public debt limit. p. H6239
 21. ADJOURNED until Mon., May 29. p. H6300
(The proceedings of the House for May 25 will be continued in the next issue of the Record.)
- BILLS INTRODUCED
22. WATER POLLUTION. S. 1870 by Sen. Randolph, to amend the Federal Water Pollution Control Act in order to provide for acid pollution control demonstration projects; to Public Works Committee. Remarks of author pp. S7437-8
 23. FOREIGN AID. S. 1872 by Sen. Fulbright, to amend further the Foreign Assistance Act of 1961, as amended; to Foreign Relations Committee. Remarks of author p. S7438

The other body put in certain funds for the Teacher Corps for the current fiscal year. These funds are authorized not for the next fiscal year, but for the current fiscal year, which ends on June 30. They will be available in the event Congress enacts legislation continuing the Teacher Corps.

The Appropriations Committee does not want to be used as a battleground for a decision of the question of the Teachers Corps. This is not the place that the decision ought to be made. We rebel against the idea of making the decision here. It should be made in an authorization bill. That is the time-honored procedure when considering the future of a program that needs further authorization.

This conference agreement simply makes the money available until June 30 in the event the Teachers Corps is authorized and continued by the Congress beyond June 30. This is the best compromise we could work out. I think it is a good compromise, and the House can work its will with respect to the matter when we reach amendment No. 20 which relates to the Teacher Corps.

With respect to the \$75 million which was put in the bill for the Office of Economic Opportunity, no one came to me and asked that a hearing be held on this issue. The Committee on Appropriations could have held a hearing had a request been made and insisted upon. The facts are, however, quite simple. We have a great deal of unemployment of students—principally in the summertime. We all know that idleness is the devil's workshop. We all know that it is increasingly difficult in this modern age to keep all of the millions of children out of school in summer employed or otherwise usefully occupied.

We know that there is a program called the Neighborhood Youth Corps which has some virtue, and there is in this bill—in the \$75 million in the conference report—\$47 million for the Neighborhood Youth Corps to give summer jobs principally in the cities, and more or less disadvantaged areas, to the teeming thousands of youth throughout the Nation.

There is also in the bill about \$19 million for keeping swimming pools open, baseball diamonds lighted, and recreational facilities operational to try to help make better Americans, and to assist in giving employment and some new tone to American cities during the summer season.

There is \$9 million in the bill for guidance purposes and general projects. I submit that the \$75 million summer program—about \$1.5 million per State—is worth the investment in the youth of the country, and I make no apology for it.

I predict that the overwhelming majority of the Members on both sides of the aisle will be willing to do this, not as an effort to kowtow to lawlessness, but as an effort to promote the well-being of the young men and women of our country who do need to have something useful and healthful to do during the summer session. This is especially helpful in view of the fact that business through-

out the Nation has gone all out in seeking to give youth summer employment. What the U.S. Government does is relatively small in relation to what the local patriotic businessmen in the various cities and neighborhoods and farms of the Nation will undertake to do in this connection during the summer.

Mr. ROONEY of New York. Mr. Speaker, will the distinguished gentleman from Texas yield for a brief statement?

Mr. MAHON. I yield to the gentleman from New York.

Mr. ROONEY of New York. Mr. Speaker, I should like to call attention to the fact that when I signed the pending conference report I did not agree to the action of the other House-Senate conferees with regard to amendments Nos. 20, 22, and 23. I felt that the House conferees should have receded to the other body on the appropriation of \$10 million for the National Teacher Corps. I felt that we should also have receded on amendment No. 22 appropriating \$20 million for payments to school districts for operation and maintenance and on amendment No. 23 appropriating \$48,831,216 for assistance for school construction. I regret that these amounts are not included in the report.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the distinguished gentleman from Iowa.

Mr. GROSS. Mr. Speaker, is it not true that the request for the \$75 million went to the other body?

Mr. MAHON. It is. This sort of procedure is followed every year, many times. It is standard procedure. There is nothing wrong about it. There is nothing improper about it.

Mr. GROSS. Mr. Speaker, is it not true that that request was made only a very short time ago?

Mr. MAHON. It is true.

Mr. GROSS. A matter of days?

Mr. MAHON. It was submitted on May 2.

It was true that the President breached his January budget when he sent up the \$75 million request.

It is true that conference after conference was held in the executive branch for the purpose of scraping up funds for carrying out the summer program.

It is true that finally, after much soul searching and many conferences, including three at the White House, it was finally determined a request would have to be made of the Congress for the additional \$75 million.

I see nothing inappropriate or wrong about this procedure. It is a standard type of procedure followed in all administrations.

Mr. GROSS. So, as a cold matter of fact, the House never had an adequate opportunity to hold hearings on this?

Mr. MAHON. The House could have held any hearings it wished to hold.

Mr. GROSS. If it had had the request in time, yes.

Mr. MAHON. There is nothing complicated about this. I do not think there is any Member of the House who reads the papers who does not understand this appropriation, and understand what the \$75 million is for.

Mr. GROSS. I am surprised that the Appropriations Committee would bring to the floor a bill of this kind without the justification it deserves.

Mr. MAHON. We have had justifications, and we have given the matter consideration, and the House now has an opportunity to work its will.

Mr. Speaker, I move the previous question, on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 1, page 2, line 8, insert: "and in addition not to exceed \$150,000 of the amount made available under the appropriation head 'Payments to States and Puerto Rico' of Public Law 89-556 may be transferred to and merged with this appropriation for the administration of Public Law 89-544, approved August 24, 1966."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "\$25,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 9, page 6, after line 9, insert:

"FOREIGN ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT

"Economic assistance

"For an additional amount for 'Administrative and other expenses, for additional expenses necessary for relocation of the Mission to the North Atlantic Treaty Organization from France to Belgium, \$840,000, to be derived by transfer from the appropriation for 'Loan to the United Nations' and to remain available until June 30, 1968."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 18, on page 12, line 1, insert:

"Office of Territories

"Trust Territory of the Pacific Islands

"For an additional amount for 'Trust Territory of the Pacific Islands', \$1,700,000, to remain available until expended."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 20, page 13, after line 16, insert:

"NATIONAL TEACHER CORPS

"For an additional amount for 'National Teacher Corps', \$10,000,000."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein with an amendment, as follows: In lieu of the matter proposed to be inserted, insert the following:

"National Teacher Corps

"For an additional amount for 'National Teacher Corps', \$3,823,700: *Provided*, That none of the funds appropriated in this paragraph for training purposes shall be available until the authorization to pay teachers in fiscal year 1968 is enacted into law."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 24, on page 14, after line 18, insert:

"Higher Education Facilities Construction

"For an additional amount for 'Higher education facilities construction', \$2,122,775, for payments under section 408 of the Higher Education Facilities Act of 1963, as amended: *Provided*, That the Federal contribution shall not exceed 50 per centum of the eligible costs: *Provided further*, That section 408(a) of such Act is amended by inserting after the parenthetical phrase '(subject to the provisions of this section)' the following 'but not to exceed one-half of the costs of such restoration or replacement,'"

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 25, on page 15, line 13, insert: "": *Provided*, That an additional allotment, not exceeding \$100,000 for grants under section 2 of said Act may be made, in accordance with regulations of the Secretary to the District of Columbia for vocational rehabilitation services to handicapped individuals."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 30, on page 17, line 7, insert: "": to remain available through December 31, 1967."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 35, on page 19, after line 12, insert:

"Miscellaneous Items

"For an additional amount for miscellaneous items, \$90,000, including \$30,000 for payment to the Architect of the Capitol in accordance with section 4 of Public Law 87-82, approved July 6, 1961: *Provided*, That effective January 1, 1967, and thereafter, the contingent fund of the Senate is made available for the reimbursement to each Senator of strictly official telephone service charges incurred outside of the District of Columbia in each fiscal quarter not exceeding \$300, said payment to be made in accordance with regulations promulgated by the Committee on Rules and Administration of the Senate."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

Senate amendment No. 36, on page 20, line 1, insert:

"Stationery (Revolving Fund)

"For an additional amount for stationery for Senators and the President of the Senate, \$53,400: *Provided*, That effective with the fiscal year 1967 and thereafter the allowance for stationery for each Senator and the President of the Senate shall be at the rate of \$3,000 per annum."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 44, on page 23, after line 1, insert:

"Contributions to International Organizations

"For an additional amount for 'Contributions to international organizations', \$3,300,000, to be derived by transfer from the appropriation for 'Loan to the United Nations'."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 46, on page 23, after line 20, insert:

"Federal prison system

"Support of United States Prisoners

"For an additional amount for 'Support of United States prisoners', \$230,000, to be derived by transfer from the appropriation for 'Salaries and expenses, United States Attorneys and Marshals'."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 46 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 47, on page 24, after line 14, insert:

"National Commission on Reform of Federal Criminal Laws

"Salaries and Expenses

"For expenses necessary to carry out the provisions of the Act of November 8, 1966 (Public Law 89-601), including hire of passenger motor vehicles, \$235,000, to be available from March 16, 1967, and to remain available until expended: *Provided*, That \$185,000 of the foregoing amount shall not be available until July 1, 1967."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein with an amendment, as follows: In lieu of the sum of "\$235,000" named in said amendment, insert "\$200,000"; and in lieu of the sum of "\$185,000" named in said amendment, insert "\$150,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 55, on page 28, line 1, insert:

"Joint Commission on the Coinage

"Salaries and Expenses

"For necessary expenses of the Joint Commission on the Coinage, as authorized by Public Law 89-81, approved July 23, 1965, including services authorized by 5 U.S.C. 3109, hire of passenger motor vehicles, and for compensation of members of the Commission from private life at the rate of \$100 per diem when actually employed, to remain available until expended, \$400,000 to be derived by transfer from the appropriation for 'Salaries and Expenses, Bureau of the Mint' 1967."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 55 and concur therein with an amendment, as follows: In lieu of the sum of "\$400,000" named in said amendment, insert "\$200,000".

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

TO CODIFY PROVISIONS OF PUBLIC LAW 89-487

Mr. ROGERS of Colorado. Mr. Speaker, at the direction of the Committee on the Judiciary, I ask unanimous consent to take from the Speaker's desk the bill, H.R. 5357, to amend section 552 of title 5, United States Code, to codify the provisions of Public Law 89-487, with the

Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, strike out all after line 6 over to and including line 8 on page 5 and insert:

"(a) Each agency shall make available to the public information as follows:

"(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

"(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

"(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

"(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

"(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

"(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

"(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

"(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

"(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

"(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

"(1) It has been indexed and either made available or published as provided by this paragraph; or

"(2) the party has actual and timely notice of the terms thereof.

"(3) Except with respect to the records made available under paragraphs (1) and

(2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(4) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding."

Page 5, line 9, strike out "(e)" and insert "(b)".

Page 6, line 10, strike out "(f)" and insert "(c)".

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. GROSS. Mr. Speaker, reserving the right to object, I assume all the amendments are germane to this bill.

Mr. ROGERS of Colorado. Yes, sir; they are, because they were put in in the Senate.

Mr. GROSS. That is the reason why I raise the question. If the other body amended it, I would like to know whether the amendments are germane.

Mr. ROGERS of Colorado. They are germane.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There were no objections.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

AMERICAN HISTORY MONTH

Mr. ROGERS of Colorado. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the joint resolution (S.J. Res. 26) designating February of each year as "American History Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. GROSS. Mr. Speaker, reserving the right to object, do I understand the gentleman has about three resolutions to present to the House at this time?

Mr. ROGERS of Colorado. I have.

Mr. GROSS. Do any of these resolutions cost the taxpayers of this country any money on the face of them?

Mr. ROGERS of Colorado. They do not.

Mr. GROSS. I thank the gentleman, and withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 26

Whereas the study of history not only enlivens appreciation of the past but also illuminates the present and gives perspective to our hopes;

Whereas a knowledge of the growth and development of our free institutions and their human values strengthens our ability to utilize these institutions and apply these values to present needs and new problems;

Whereas Americans honor their debt to the creativity, wisdom, work, faith, and sacrifice of those who first secured our freedoms, and recognize their obligation to build upon this heritage so as to meet the challenge of the future;

Whereas February 1967 has been designated by the President as "American History Month"; and

Whereas it is appropriate to encourage a deeper awareness of the great events which shaped America, and a renewed dedication to the ideals and principles we hold in trust: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February of each year is hereby designated as "American History Month", and the President of the United States is requested and authorized to issue annually a proclamation inviting the people of the United States to observe such month in schools and other suitable places with appropriate ceremonies and activities.

Mr. McCLOREY. Mr. Speaker, I am happy to lend support to Senate Joint Resolution 26, to designate February 1968, as "American History Month." This measure, sponsored by 35 Members of the other body, headed by my colleagues from Illinois, the minority leader, Senator DIRKSEN, will serve to focus broad national attention upon the great American heritage that is represented in the history of our Nation.

The rights and privileges that we enjoy in this land of freedom and opportunity are frequently taken for granted. Many citizens appear not to appreciate or understand the struggles that preceded the acquisition of our American rights and privileges.

The increased emphasis on the study of American history will foster the moral and spiritual strength of our people and give assurance that our Nation will endure to benefit future generations.

Mr. Speaker, I commend the Daughters of the American Revolution for their leadership in promoting adoption of this resolution. I also wish to pay tribute to all of the other patriotic organizations that supported this measure.

As a Representative from the great State of Illinois, from whence Abraham Lincoln emerged as one of the greatest Americans of all time, I am particularly proud that the action taken today by this House will designate the month of his birth, as well as the birth month of George Washington, the father of our country, as "American History Month."

AMENDMENTS OFFERED BY MR. ROGERS
OF COLORADO

Mr. ROGERS of Colorado. Mr. Speaker, I offer amendments.

The Clerk read the amendments, as follows:

Amendments offered by Mr. ROGERS of Colorado: On page 2, line 3, strike "of each year" and insert "1968".

On page 3, line 5, strike "annually".
Strike all "Whereas" clauses.

The amendments were agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time and passed.

The title was amended so as to read: "Designating February 1968 as 'American History Month'."

A motion to reconsider was laid on the table.

NATIONAL COAL WEEK

Mr. ROGERS of Colorado. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 20), to declare the week of June 18 "National Coal Week," and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 20

Resolved by the Senate (the House of Representatives concurring), That inasmuch as President Woodrow Wilson, at the outbreak of World War I, called upon United States bituminous coal operators to organize an association to meet the urgent fuel demands of a nation at war, and that out of this national need the National Coal Association was created in 1917, the President of the United States is hereby requested to issue a proclamation designating the week beginning June 18, 1967, as "National Coal Week", in honor of the golden anniversary of the founding of the National Coal Association; and be it further

Resolved, That the President of the United States is hereby requested to invite the Governors of the various States to issue proclamations for like purposes, recognizing the outstanding contribution the National Coal Association has made to the Nation and to the industry it has served for fifty years.

Mr. ROGERS of Colorado (interrupting the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

THE 175TH ANNIVERSARY OF THE
ADMISSION OF KENTUCKY TO
THE UNION

Mr. ROGERS of Colorado. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the concurrent resolution (H. Con. Res. 204), marking the 175th anniversary of the admission of Kentucky to the Union,

and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 204

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States extends its greetings and felicitations to the Commonwealth of Kentucky upon the occasion of the one hundred and seventy-fifth anniversary of the admission of Kentucky into the Union and joins with the people of the Commonwealth of Kentucky in commemorating this anniversary.

Sec. 2. A copy of this resolution shall be transmitted to the Governor of the Commonwealth of Kentucky.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. NATCHER. Mr. Speaker, reserving the right to object, this year 1967 marks the 175th anniversary of Kentucky's official admission into the Federal Union and certainly it is most appropriate that Kentuckians everywhere pause to properly commemorate this historic occasion. On the 1st day of June 1792 our Commonwealth proudly became the 15th State in the Union and from that day forward has, with dignity and honor, kept her house in order.

Kentucky is, of course, many things to many people but I think all of us see anew the fabulous vision that was Daniel Boone's when he first entered into the wilderness where few white men had ever dared to set foot. Historically, we instinctively recall our Commonwealth as the birthplace of Abraham Lincoln, President of the Union, at Hodgenville, and Jefferson Davis, President of the Confederacy, at Fairview. It is the birthplace of a great many other outstanding Americans, just a few of whom are Henry Clay, a brilliant legislator who was a Member of the House and Senate and served for a number of years as Speaker of the House; Henry Watterson, one of the great journalists of all times, who served in the House from 1876 to 1877 and is the author of many famous editorials, one of which incorporated the phrase "40 years of shine and shower have passed over the good gray head of the 'Old Lady at the Corner'" and thus, the Louisville Courier-Journal became affectionately known as the "Old Lady at the Corner"; our beloved Alben W. Barkley, distinguished statesman and Member of the House and Senate and later Vice President, and the inimitable Irvin S. Cobb.

It was within our Commonwealth, at Bardstown, Ky., that Stephen Collins Foster was inspired to write the beloved and endearing melody known the world over as "My Old Kentucky Home," the immortal words of which have kept ever alive in the heart of every absent son and daughter a tender sentiment for their old Kentucky home.

Kentucky is the magic word which annually spells out the Derby, affectionately styled the "run for the roses," when thousands upon thousands gather to witness a contest of courage, stamina and speed among our thoroughbreds. Our scenic wonders, including Mammoth Cave, Cumberland Gap, and Cumber-

land Falls, plus our wide areas of State parks, historic shrines, lakes, and mountains make understandable the fact that, for nearly two centuries our great Commonwealth has been famed around the world as a charmed region blessed with many unusual and attractive characteristics. Its natural environments, its glorious traditions, its peoples and its customs have been the cause of countless recitals. All Kentuckians are well aware of our State's scenic excellence, its enviable history, its renowned institutions and overall fertility, and, Mr. Speaker, I can assure you that despite whatever other shortcomings Kentuckians may have, a lack of pride and pardonable boasts for their homeland's numerous virtues have never been counted among them.

Every true Kentuckian is firmly convinced that his particular home area is the real garden spot of the world, whether it be the mountains, the bluegrass, the beargrass, the Pennyroyal or the Purchase and he is only willing to grant second place to any of the other regions within his own State.

Traditionally, to most Americans, Kentucky means bluegrass, fast horses, beautiful women, and bourbon whisky. No Kentuckian would ever deny his pride in these assets but in addition, our Commonwealth is today rapidly becoming an industrial empire and a tourist mecca. Our energies are directed toward not only maintaining this type of development, but to expand it still further and thus translate into reality the Indian's word for Kentucky—"land of tomorrow."

Kentucky's 55th Governor is the Honorable Edward T. Breathitt. He is a true Kentuckian and has established an outstanding record.

It is a distinct honor and privilege for me to be the author of House Concurrent Resolution 204 which provides for the extension of greetings and felicitations to the Commonwealth of Kentucky upon the occasion of the 175th anniversary of the admission of Kentucky into the Union.

Mr. Speaker, I think the following poem by that beloved Lexingtonian, James H. Mulligan, tells you, in his unique and colorful style, a great many things about the Commonwealth of Kentucky:

The moonlight falls the softest in Kentucky;
The summer days come ofttest in Kentucky;
Friendship is the strongest,
Love's light glows the longest,
Yet, wrong is always wrongest in Kentucky.

Life's burdens bear the lightest in Kentucky;
The home fires burn the brightest in Kentucky;

While players are the keenest,
Cards come out the meanest,
The pocket empties cleanest in Kentucky.

The sun shines ever brightest in Kentucky;
The breezes whisper lightest in Kentucky;
Plain girls are the fewest,
Their little hearts are the truest,
Maiden's eyes are the bluest in Kentucky.

Orators are the grandest in Kentucky;
Officials are the blandest in Kentucky;
Boys are all the fleetest,
Danger ever highest,
Taxes are the highest in Kentucky.



Public Law 90-23
90th Congress, H. R. 5357
June 5, 1967

An Act

81 STAT. 54

To amend section 552 of title 5, United States Code, to codify the provisions of Public Law 89-487.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 552 of title 5, United States Code, is amended to read:

Public information.
80 Stat. 383.

“§ 552. Public information; agency rules, opinions, orders, records, and proceedings

“(a) Each agency shall make available to the public information as follows:

“(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

Publication in Federal Register.

“(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

“(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

“(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

“(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

“(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

Exception.

“(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

Inspection and copying.

“(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

“(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

“(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. A final order, opinion, statement of policy, interpretation, or staff manual

Conditions.

or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

“(i) it has been indexed and either made available or published as provided by this paragraph; or

“(ii) the party has actual and timely notice of the terms thereof.

Exceptions.

“(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

“(4) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

Nonapplicability.

“(b) This section does not apply to matters that are—

“(1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

“(2) related solely to the internal personnel rules and practices of an agency;

“(3) specifically exempted from disclosure by statute;

“(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

“(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

“(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

“(7) investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

“(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

“(9) geological and geophysical information and data, including maps, concerning wells.

“(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.”

Congressional reservation.

June 5, 1967

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Pub. Law 90-23

81 STAT. 56

SEC. 2. The analysis of chapter 5 of title 5, United States Code, is amended by striking out: 80 Stat. 380.

"552. Publication of information, rules, opinions, orders, and public records." and inserting in place thereof:

"552. Public information; agency rules, opinions, orders, records, and proceedings."

SEC. 3. The Act of July 4, 1966 (Public Law 89-487, 80 Stat. 250), is repealed. Repeal.

SEC. 4. This Act shall be effective July 4, 1967, or on the date of enactment, whichever is later. Effective date.

Approved June 5, 1967.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 125 (Comm. on the Judiciary).

SENATE REPORT No. 248 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 113 (1967):

Apr. 3: Considered and passed House.

May 19: Considered and passed Senate, amended.

May 25: House agreed to Senate amendments.

